

AF/1774



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Richard Muhlbacher et al.

Serial No.: 09/808,243

Filed: March 14, 2001

For: INTERIOR LINING COMPONENT

Attorney Docket No.: LEAR 0835 PUS

Group Art Unit: 1774

Examiner: Camie S Thompson

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APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is an appeal from the final rejection of claims 1-25 in the Office Action dated May 9, 2003.

I. REAL PARTY IN INTEREST

The real party in interest is Lear Corporation GmbH & Co. K.G., a corporation organized and existing under the laws of the Federal Republic of Germany, and having a place of business at Ringstrasse 130, Ebersberg, Germany 85560, as set forth in the assignment

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

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II. RELATED APPEALS AND INTERFERENCES

There are no appeals or interferences related to the present appeal.

III. STATUS OF CLAIMS

This application was filed on March 14, 2001 with claims 1-18. During prosecution, new claims 19-25 were added. Claims 1-25 were finally rejected and are the subject of this appeal. These claims are reproduced in Appendix A.

IV. STATUS OF AMENDMENTS

All amendments previously filed in this application have been entered. No amendment after the final rejection was filed.

V. SUMMARY OF THE INVENTION

The invention is directed to an interior lining component for a vehicle roof. The interior lining component for the vehicle roof includes at least one decorative layer forming a facing, an intermediate layer covered by the decorative layer, and at least one support layer having a comparatively high flexural strength. The support layer includes at least one upper foam panel and at least one lower foam panel that are interconnected by pressing. One foam panel provides stiffness while the other provides increased acoustic absorption.

In another expression of the invention a first reinforcing mat is disposed above the intermediate layer and a second reinforcing mat is disposed above the support layer.

VI. ISSUES

1. Whether the Examiner made a *prima facie* case that claims 1-25 are unpatentable over U.S. Patent No. 4,479,992 to Häseker et al. ("Häseker '992") in view of U.S. Patent No. 4,541,885 to Caudill, Jr. et al. ("Caudill '885"), and in further view of U.S. Patent No. 4,791,019 to Ohta et al. ("Ohta '019").

2. Whether the Examiner erred in rejecting claims 5, 13, 15, 19, 20, 24 and 25 as being unpatentable over Häseker '992 in view of Caudill '885 and in further view of Ohta '019.

VII. GROUPING OF CLAIMS

The application contains two independent claims, namely claims 1 and 23, which are grouped separately. The dependent claims stand or fall with their respective independent claim, except where argued below. Specifically, dependent claims 5, 13, 15, 19, 20, 24 and 25 are separately arguable.

VIII. ARGUMENT

1. The Examiner Failed To Make A *Prima Facie* Case Under 35 U.S.C. § 103(a)

The Examiner failed to establish proper motivation for combining Caudill '885 with Häseker '992. Both independent claims involved in the appeal are directed to a vehicle roof liner and require a support layer that includes a lower foam panel and an upper foam

panel. Specifically, claim 1 recites an “interior lining component for a vehicle roof” that includes a support layer having “at least one lower and one upper foam panel” and claim 23 recites an “inside roof lining for a vehicle” that includes a support layer having “a lower foam panel [and] an upper foam panel.” Because Häseker ‘992 does not disclose a support layer including a lower foam panel and an upper foam panel, the Examiner proposed to combine Caudill ‘885 with Häseker ‘992. In the final Office Action mailed on May 9, 2003, the Examiner acknowledged that Caudill ‘885 is not directed toward a vehicle roof liner, but argued that there was motivation to combine the references since “both references are laminates and each have a support system” (see page 5 of the final Office Action).

Applicants respectfully believe that there is no suggestion or motivation for combining Caudill ‘885 with Häseker ‘992. As noted by the United States Court of Appeals for the Federal Circuit, there are three possible sources for a motivation to combine references: “the nature of the problem to be solved, the teachings of the prior art, and the knowledge of persons of ordinary skill in the art.” *In re Rouffet*, 149 F.3d 1350, 47 USPQ2d 1453 (Fed. Cir. 1998).

In this case, the cited references are directed to different problems. Specifically, Caudill ‘885 is directed to the problem of adding decorative embossing to a vehicle seat cover using dielectric embossing technology, while Häseker ‘992 is directed to providing an acoustically effective lining component for a vehicle roof or engine space. Therefore, the nature of the problem to be solved is not a source for motivation to combine Caudill ‘885 and Häseker ‘992.

With respect to the second possible source for motivation, there is no teaching in Caudill ‘885 of applicability outside of the automotive seat art. More specifically, Caudill ‘885 does not teach or even remotely suggest the use of the disclosed dielectrically embossed seat cover assembly as a roof liner.

In addition, Häseker '992 actually teaches away from its combination with Caudill '885. Specifically, the Examiner argued that "the polyurethane foam used in the support system of the Caudill reference provides stiffness and rigidity" (see page 5 of the final Office Action). In contrast, Häseker '992 discloses that a polyurethane foam layer "fails completely in the strength test, corresponding to a pronounced sag in one direction" (see column 4, lines 6-12 and lines 46-47). Consequently, Häseker '992 teaches that a polyurethane foam layer, such as that in Caudill '885, is undesirable for use with the support system disclosed in Häseker '992. As a result, the teachings of the prior art are not a source for motivation to combine Caudill '885 and Häseker '992.

In addition, the Examiner failed to identify or explain any specific understanding or principle within the knowledge of a skilled vehicle roof liner artisan that would motivate one with no knowledge of the present invention to make the combination. Instead, the Examiner has engaged in impermissible hindsight analysis by looking to the present invention for the insight to combine the seat foam laminate of Caudill '885 with the vehicle roof liner of Häseker '992.

For these reasons, Applicants respectfully believe that one skilled in the vehicle roof liner art would not be motivated to look to the non-analogous seating art, and more specifically to Caudill '885, for a solution to the problem of providing a vehicle roof liner with improved geometric adaptability and increased acoustic absorption. As a result, Applicants respectfully believe that the Examiner has failed to make a *prima facie* case that claims 1-25 are unpatentable under § 103(a) and that the rejection should therefore be reversed.

2. The Examiner Improperly Rejected Claims 5, 13, 17, 19, 20, 24 and 25 Over Häseker '992 As Modified By Caudill '885 and Ohta '019.

The Examiner improperly ignored claim language when rejecting claims 5, 13, 15, 19, 20, 24 and 25 as discussed below. As noted in § 2143.03 of the *Manual of Patent*

Examining Procedure, “[t]o establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).” Furthermore, according to § 2116.01 of the *Manual of Patent Examining Procedure*, “[a]ll the limitations of a claim must be considered when weighing the differences between the claimed invention and the prior art in determining the obviousness of a process or a method claim.” Similarly, “[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385; 165 USPQ 494, 496 (CCPA 1970). Thus, it is improper to ignore claim language as the Examiner has done.

Claim 13 recites that the “upper and lower foam panels have different porosities.” The Examiner contends that since Häseker ‘992 discloses “upper and lower foam layers [having] different material thickness, each layer would then have different porosities in order to provide flexibility” (see page 4 of the final Office Action). However, Häseker ‘992 does not provide any teaching regarding porosity. Furthermore, the Examiner has provided no other reference or support for the assumption that material thickness is related to porosity.

The Examiner improperly ignored claim language in claim 15. Claim 15 recites a cover fleece that is “a PET fleece or a PE/PET composite.” The Examiner argued that Häseker ‘992 discloses a “polyester fiber fleece” (see page 3 of the final Office Action). However, the Examiner failed to provide any reference that discloses a PET fleece or PE/PET composite as required by claim 15. As such the rejection of claim 15 is improper.

The Examiner improperly ignored claim language in claim 19. Claim 19 recites a support layer having “a flexural strength greater than the decorative layer and the intermediate layer.” The Examiner contends that Häseker ‘992 discloses “a support layer [that] has a compressive strength greater than the intermediate and decorative layer because the support layer is compacted over a part of its extent to a closed layer of reduced thickness” (see

page 4 of the final Office Action, underlining added for emphasis). However, the Examiner failed to provide any reference that discloses flexural strength as required by claim 19. As such, the rejection of claim 19 is improper.

The Examiner improperly ignored claim language in claims 5 and 20. Claims 5 and 20 recite material thickness ratios. Specifically, claims 5 and 20 recite ratios of material thicknesses of the lower and upper foam panels of “0.01 to 0.95” and “0.3 to 0.75,” respectively. However, the Examiner failed to provide any reference disclosing material thickness ratios. Moreover, the Examiner has misapplied Häseker ‘992. The Examiner stated that Häseker ‘992 discloses an “upper foam panel [that] has a smaller dimension than that of the lower foam panel” (see page 4 of the final Office Action). However, claims 5 and 20 require that the lower foam panel must be thinner than the upper foam panel in order to have a ratio of less than one. As such, rejection of claims 5 and 20 are improper.

The Examiner improperly ignored claim language in claims 24 and 25. Claim 24 recites an interior lining component where “the lower foam panel provides stiffness and the upper foam panel provides acoustic absorption.” Similarly, claim 25 recites that “the upper foam panel provides stiffness and the lower foam panel provides acoustic absorption.” In the final Office Action, the Examiner contends that Häseker ‘992 “shows [an] upper and lower foam panel embodiment” and that “the embodiment provides absorption of acoustic energy.” However, the Examiner failed to provide any reference that discloses that a particular foam panel provides acoustic absorption, while another foam panel provides stiffness. As such, the rejection of claims 24 and 25 is improper.

CONCLUSION

The Examiner's proposed combination of references is improper. Therefore, the final rejection of claims 1-25 should be reversed. Furthermore, the Examiner improperly ignored claim language when rejecting claims 5, 13, 15, 19, 20, 24 and 25.

The fee of \$320 as applicable under the provisions of 37 C.F.R. § 1.17(c) is enclosed. Please charge any additional fee or credit any overpayment in connection with this filing to our Deposit Account No. 02-3978. A duplicate of this notice is enclosed for this purpose.

Respectfully submitted,

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Enclosure - Appendix

IX. APPENDIX - CLAIMS ON APPEAL

1. An interior lining component for a vehicle roof comprising at least one decorative layer forming a facing of the interior lining component, an intermediate layer covered by said decorative layer, and at least one support layer, characterized in that the support layer comprises at least one lower and one upper foam panel which are interconnected by pressing.

2. An interior lining component according to claim 1, characterized in that the lower and the upper foam panel are interconnected along their whole area of contact.

3. An interior lining component according to claim 2, characterized in that the foam panels have different material thicknesses.

4. An interior lining component according to claim 1, characterized in that in comparison with the upper foam panel, the lower foam panel bordering on the intermediate layer has a material thickness which is not greater than the material thickness of said upper foam panel.

5. An interior lining component according to claim 1, characterized in that the ratio of the material thicknesses of the lower and upper foam panels is 0.01 to 0.95.

6. An interior lining component according to claim 1, characterized in that the upper foam panel has a smaller lateral dimension than the lower foam panel.

7. An interior lining component according to claim 1, characterized in that all layers of the interior lining component are interconnected by pressing in a one-step technology.

8. An interior lining component according to claim 1, characterized in that a reinforcing mat is arranged on the back of the upper foam panel facing away from the lower foam panel.

9. An interior lining component according to claim 8, characterized in that the side of the reinforcing mat facing away from the foam panels has a cover fleece arranged thereon.

10. An interior lining component according to claim 1, characterized in that the intermediate layer is formed of a cushioning layer and of a connection layer arranged on a cushioning-layer back which faces the lower foam panel.

11. An interior lining component according to claim 1, characterized in that the foam panels are formed of polyurethane.

12. An interior lining component according to claim 1, characterized in that the upper and lower foam panels consist of the same materials.

13. An interior lining component according to claim 1, characterized in that the upper and lower foam panels have different porosities.

14. An interior lining component according to claim 10, characterized in that the cushioning layer is a flexible soft foam layer.

15. An interior lining component according to claim 9, characterized in that the cover fleece is a PET fleece or a PE/PET composite.

16. An interior lining component according to claim 8, characterized in that the reinforcing mat contains glass.

17. An interior lining component according to claim 8, characterized in that connection layers are arranged between the upper and lower foam panels and between the foam panels and the reinforcing mat.

18. The interior lining component of claim 1, wherein said pressing comprises press-moulding.

19. An interior lining component according to claim 1, wherein the support layer has a flexural strength greater than the decorative layer and the intermediate layer.

20. An interior lining component according to claim 1, wherein the ratio of material thicknesses of the lower and upper foam panels is in the range of 0.3 to 0.75.

21. An interior lining component according to claim 1, wherein the connection layers comprise polyurethane adhesive.

22. An interior lining component according to claim 1, wherein the interior lining component defines an inside roof lining.

23. An inside roof lining for a vehicle, the roof lining comprising:
at least one decorative layer forming a facing of the roof lining;
an intermediate layer covered by the decorative layer, the intermediate layer including a cushioning layer;
a first reinforcing mat disposed above the intermediate layer, the reinforcing layer comprising fibers;

a support layer disposed above the first reinforcing layer, the support layer including a lower foam panel, an upper foam panel and an adhesive layer disposed between the foam panels for interconnecting the foam panels together, each foam layer comprising polyurethane; and

a second reinforcing mat disposed above the support layer, the second reinforcing mat comprising fibers.

24. An interior lining component according to claim 1 wherein the lower foam panel provides stiffness and the upper foam panel provides acoustic absorption.

25. An interior lining component according to claim 1 wherein the upper foam panel provides stiffness and the lower foam panel provides acoustic absorption.